



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,659	03/30/2004	Hector Manuel Brignoni	9574	3397

27752 7590 05/14/2007  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.  
WINTON HILL BUSINESS CENTER - BOX 412  
6250 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
----------

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
----------	--------------

3728

MAIL DATE	DELIVERY MODE
-----------	---------------

05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

88

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/812,659	BRIGNONI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Luan K. Bui	3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Drawings***

1. The drawings are finally objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the front face of the lenticular label comprises a multidimensional image ... in claim 1, to a viewer at least one visual illusion ... in claim 2, the lenticular label further comprises a plurality of lenticules substantially parallel to said longitudinal axis in claim 5, container is arcuate in shape in claim 8, a design on said first surface ... in claim 9 and a plurality of interlaced component images must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3728

Applicants indicates "It has been USPTO practice that drawings are not considered necessary for the understanding of the invention under 35 U.S.C. 113 (first sentence) ..." is noted. However, in this case the drawings are necessary for the understanding of the subject matter in the claims (see below).

### **35 U.S.C. 113 Drawings.**

The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Director may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

(Amended Nov. 14, 1975, Public Law 94-131, sec. 8, 89 Stat. 691; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

### **However, no drawings are required if (MPEP 601.01(f)):**

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications. Other situations in which drawings are usually not considered necessary for the understanding of the invention under 35 U.S.C. 113 (first sentence) are:

(A) Coated articles or products : where the invention resides solely in coating or impregnating a conventional sheet (e.g., paper or cloth, or an article of known and conventional character with a particular composition), unless significant details of structure or arrangement are involved in the article claims;

Art Unit: 3728

(B) Articles made from a particular material or composition : where the invention consists in making an article of a particular material or composition, unless significant details of structure or arrangement are involved in the article claims;

(C) Laminated structures : where the claimed invention involves only laminations of sheets (and coatings) of specified material unless significant details of structure or arrangement (other than the mere order of the layers) are involved in the article claims; or

(D) Articles, apparatus, or systems where sole distinguishing feature is presence of a particular material : where the invention resides solely in the use of a particular material in an otherwise old article, apparatus or system recited broadly in the claims, for example:

(1) A hydraulic system distinguished solely by the use therein of a particular hydraulic fluid;

(2) Packaged sutures wherein the structure and arrangement of the package are conventional and the only distinguishing feature is the use of a particular material.

It is clear that the instant patent application does not fall into any of the situations as indicates above. Applicant indicates that “The invention relates to the enhancement of multidimensional images via the application of a particular material to a particular surface of a container ...” is noted. Although the multidimensional images are old and conventional as

Art Unit: 3728

admitted by the Applicant in the remarks and in the background of the invention, but the structure of the container as recites in claims 8 and 9 and the structure of the multidimensional image as recites in claims 1-15 are also old and conventional?

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over The Related Prior Art on page 2, paragraphs 2-3 of the instant patent application (hereinafter The Related Prior Art on page 2 of the instant patent application) or Blue et al. (5,310,261; hereinafter Blue'261) in view of The Related Prior Art of the lenticular lens technology on pages 2 and 3 of the instant patent application (hereinafter The Related Prior Art of lenticular lens technology on pages 2 and 3 of the instant patent application). To the extent that the Examiner can determine the scope of the claims, The Related Prior Art on page 2 of the instant patent application discloses the labels and other decorative features can be inserted into and attached to an interior surface of a container or bottle so as to be viewable through the container which is considered equivalent the front face of the label adhered in a facing relationship to the second surface of the substantially transparent container as claimed. Blue'261 discloses a container/bottle having a temperature sensing strip/label (12a) adhered to an inner surface of the

Art Unit: 3728

container/bottle. However, The Related Prior Art on page 2 of the instant patent application or Blue'261 fails to disclose the label comprises a lenticular label having a multidimensional image. The Related Prior Art of lenticular lens technology on pages 2 and 3 of the instant patent application shows a lenticular label including a multidimensional image that can be applied to a container or bottle.

Therefor, it would have been obvious to one having ordinary skill in the art in view of The Related Prior Art of lenticular lens technology on pages 2 and 3 of the instant patent application to modify The Related Prior Art on page 2 of the instant patent application or Blue'261 so the label comprises a lenticular label having a multidimensional image to provide more attractiveness for the viewer.

4. Claims 8-15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of Swenson (6,272,777). The container or bottle of The Related Prior Art on page 2 of the instant patent application or Blue'261 as modified further fails to show a liquid product being at least semi-transparent. Swenson shows a transparent bottle (10) holding clear liquid/at least semi-transparent (abstract). It would have been obvious to one having ordinary skill in the art in view of Swenson to modify the container or bottle of The Related Prior Art on page 2 of the instant patent application or Blue'261 so the container or bottle is containing a liquid product and the liquid product is at least semi-transparent for better displaying the label within the container or bottle.

***Response to Arguments***

Applicant's arguments filed on 3/26/2007 have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 1-7 are noted. They are not persuasive because the rejection of claims 1-7 being unpatentable over The Related Prior Art on page 2 paragraphs 2-3 or Blue in view of The Related Prior Art of the lenticular lens technology on pages 2 and 3 (see the previous or the instant Office Action). The Related Prior Art on page 2, paragraphs 2 and 3 discloses that labels and other decorative features can be inserted into and attached to an interior surface of the container or bottle and the configuration can allow for three-dimensional decorations. The Related Prior Art on page 2, paragraphs 2 and 3 also discloses the adhered side of the label comprises pictorial images so as to be viewable through the front of the container (page 2, paragraph 2). Blue discloses the container having a temperature sensing strip/label adhered to an inner surface of the container so the viewer can view the indicia on the strip. The Related Prior Art of lenticular lens technology on pages 2 and 3 shows that it is old and conventional for providing the lenticular label with multidimensional images and the label can be applied to the container. There does not appear to be anything unobvious about using the teaching of providing the lenticular label with multidimensional images as taught by The Related Prior Art of lenticular lens technology on pages 2 and 3 into the label of The Related Prior Art on page 2, paragraphs 2 and 3 or Blue for decorative purposes.



Art Unit: 3728

Applicant's arguments with respect to claims 8-15 are noted. They are not persuasive because the liquid product of Blue is appeared to be at least semi-transparent and the liquid product of The Related Prior Art on page 2, paragraphs 2 and 3 can be at least semi-transparent so as to be viewable through the front of the container (see paragraph 2).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3728

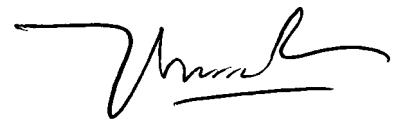
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb  
May 3, 2007



Luan K. Bui  
Primary Examiner  
Art Unit 3728